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INTRODUCTION

[1](#). (S/NF) September 23, 2009 will mark a key deadline in the "Joint Action Plan Between the Government of the United States of America and the Government of the Republic of Armenia On Preventing Transfers of Concern of Conventional Arms and Dual Use Items." As indicated in paragraphs 1 and 2 in the Plan (ref A), the Government of Armenia (GOAM) has 180 days from signing on March 27, 2008, to satisfy two key conditions:

--To implement national laws, regulations, policies, and procedures to prevent the transfer, re-export, transit, or transshipment of conventional arms and related technical data to countries or other recipients of concern;

--To implement national laws, regulations, policies, and procedures to prevent the transfer, re-export, transit, or transshipment of controlled dual use goods and technologies to countries or other recipients of concern.

When the deadline arrives, the USG must not only be prepared to assess the progress of the GOAM in fulfilling its commitments under the Plan, but to have determined which USG policy responses to GOAM actions to date best serve our interests in the region. To that end, post offers the following preparatory assessment and analysis.

[2](#). (S/NF) An important first step in any USG assessment of whether the GOAM has done enough to meet its commitments will be to acknowledge the qualitative and subjective nature of that assessment. While the Plan lays out broad goals, at no point since the initial negotiation have we developed and conveyed to the Armenian authorities a comprehensive set of quantifiable steps the GOAM must take that would satisfy its 180-day obligations. Absent an objectively verifiable checklist, we will need to assess GOAM actions in the context of our engagement with them; how have they responded to the messages of our experts, both explicit and implicit, about where the GOAM should focus its actions to meet its commitments.

A FOCUS (AND PROGRESS) ON MUNITIONS

13. (S/NF) The primary focus of our engagement with the GOAM since signing of the Plan has been on reform of Armenian laws and regulations to control the export of conventional arms -- paragraph 1 in the Plan. The May 27-29 visit of USG experts to Yerevan focused on munitions (ref C). The subsequent July 27-31 visit of USG experts included a minor dual-use component -- the USG dual-use lawyer held preliminary conversations with her counterparts regarding the interrelationship between munitions and WMD dual-use export control regimes -- but the detailed discussion of legislative and regulatory reform throughout the week focused, as intended by both sides, on munitions.

14. (S/NF) During the July visit, our experts were explicit with their GOAM interlocutors that munitions and dual use should be addressed sequentially. In part, this reflected a recognition of the GOAM's limited capacity to reform its dual use and munitions controls simultaneously and on a very tight schedule. Armenian export control experts are already working to complete in six months what other countries typically have taken years to do in reforming their conventional arms control regimes. But the sequencing also reflects a recognition that it will be the changes on the munitions side that will potentially open up loopholes and points of weakness in the dual use regime which will then need to be addressed.

15. (S/NF) Armenian progress on paragraph 1 has been considerable. According to the assessment of our munitions expert, "the GOAM has made a concerted and serious effort to establish the legal bases for an effective and functional munitions export control system in a very short time period."

Moreover, our experts concluded that the total legislative and regulatory package developed by the GOAM, while complex and not without its deficiencies, could, if properly implemented, be a first step in fulfilling the key elements of a munitions export control licensing system (refs D, E). The draft legislation has been submitted to Parliament and implementing decrees have been developed. GOAM interlocutors expect that the legislation will be a top agenda item when Parliament reconvenes on September 14, and that it will likely be passed and signed by the 180-day deadline. Thus, although the USG has not explicitly communicated to the GOAM what specific steps were necessary to satisfy the requirements of item 1 in the Plan, and considerable work remains ahead regarding implementation and enforcement, the GOAM has aggressively engaged where we have focused it, and appears on track to adopt significant legislative and regulatory reforms to establish a munitions export control system where one effectively did not exist.

DIFFERENT CONTEXT, TIMELINES FOR DUAL-USE

16. (S/NF) The background context for our engagement with the GOAM on paragraph 2 of the Plan -- reform of the Armenian dual-use regime -- is different than that for munitions. While the weaknesses of the munitions regime have been clear, the current Armenian dual-use regime is a result of three years of engagement (2002-2004) with U.S. Commerce Department lawyers who, after two to three trips per year, approved the stand-alone law that was the final product. Commerce subsequently conducted licensing courses for GOAM export control officials into 2008 to support Armenian enforcement efforts. The dual-use regime is due for review -- it has not received a hard look since a University of Georgia 2006 report (UGA's 2008 report used only open-source reporting, making it of questionable value) -- and will certainly require critical and comprehensive attention in light of expected changes to the munitions laws. But the foundation -- unlike that of the munitions control regime -- is sound

and based on the European Union's export control system for dual use items.

¶7. (S/NF) In assessing whether the GOAM has fulfilled its commitments under paragraph 2 of the Plan, therefore, it would ignore context to ask whether GOAM actions in the dual-use use sphere compare to the aggressive activity on legislative and regulatory reform on munitions control. Work on dual use starts from a different baseline. Rather, the key question is whether the GOAM has been responsive to what our experts have asked of them: that the GOAM, following adoption of new munitions laws and decrees, incorporate necessary enhancements and updates to its dual-use regime. That work, by the agreement of experts on both sides, still lies ahead.

THE NEXT 180 DAYS

¶8. (S/NF) To date, the GOAM has displayed the political will (ref B) and working level commitment to reform its export control regime on a significantly compressed timeline. That commitment appears set to produce tangible legislative and regulatory progress by month's end. Nonetheless, these accomplishments will only mark the beginning of a longer process of implementation and enforcement that will prove critical to our core foreign policy goal -- preventing future transfers. Come September 23, we should formulate our message to the Armenians to maximize the likelihood of achieving that goal.

¶9. (S/NF) Assuming Armenian progress remains on its current trajectory, post believes our message to the Armenians should: acknowledge GOAM accomplishments; note the hard work that lies ahead; and communicate that the status-quo on sanctions and our overall uninterrupted bilateral engagement policy will remain while we continue cooperatively reforming Armenia's export control system and provide Armenia with the necessary training, consistent with the Plan, to ensure effective implementation of its export controls. Since our engagement over the last five months has focused on the munitions side, with engagement on dual use to follow, the "incomplete" grade implicit in a further suspension of sanctions would reflect the messages the GOAM has already received.

¶10. (S/NF) Communicating that we continue to have a basis to recommend that sanctions not be imposed, but that they remain a possibility, would provide us with continued leverage as we engage the GOAM on dual-use and elements of implementation/enforcement addressed under paragraph 3 of the Plan. While only paragraphs 1 and 2 are time-delimited, rapid GOAM completion of specific items under paragraph 3 would be strong indicators of progress "to implement...procedures to prevent" illicit transfer of conventional arms or dual-use items required in paragraphs 1 and 2. The GOAM's ability to quickly stand up interagency trade enforcement teams at all points of entry would, for example, be strong evidence of its commitment to translate laws and regulations into an export control system with teeth. The greater detail the USG can offer regarding what we would consider evidence of GOAM commitment to strengthening its system, the greater use we could make of the leverage potential sanctions provide. Post stands ready to work with Washington in developing a detailed plan of engagement for the months ahead, including training and technical assistance the USG will commit and performance indicators the GOAM should reach to ensure full and effective implementation of its export control system.

¶11. (S/NF) If instead we were to focus our qualitative assessment on what the GOAM has not done (e.g. on dual use) or on weaknesses in the draft munitions laws (which do exist), the USG message to the Armenians could be "too little, too late," with punitive measures -- if not sanctions, then cancellation of programs, visits, or other

engagement -- to follow. Such an approach would derail progress made to date and undermine our core goal of preventing future illicit transfers. Much difficult cooperative work remains ahead before Armenian export controls are where we would like them to be. But the door is open. Coming down hard on the GOAM now, after serious, sustained engagement on its part, would provoke a backlash, trigger cynicism among the Armenian officials whose cooperation is necessary to the reform effort, bolster the camp that opposes strengthening the export control regime, and effectively close the door on continued productive cooperation.

YOVANOVITCH